Supreme Court, U.S.
FILED

091312 MAR 9 - 2010

OFFICE OF THE CLERK

No. ____

In The

Supreme Court of the United States

SERGEI PORTNOY pro se
ELENA PORTNOY pro se

Plaintiffs,

Vs.

UNITED STATES OF AMERICA, ERIC HOLDER, JANET NAPOLITANO, EMILIO T.GONZALES.

Defendants.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

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PETITION FOR A WRIT CERTIORARI.

Sergei Portnoy
Elena Portnoy
125 Kern Ave.,
Woodland, CA 95695.
Phone (530) 666-3076.

QUESTION(S) PRESENTED

(1) Whether the district court erred in granting the government's motion to dismiss for lack of subject matter jurisdiction for I-130 PETITION, **which government fraudulent denied.**

(2) Whether the district court erred in granting the government's motion to dismiss on ground of **RES JUDICATA for never adjudicated case.**

(3) Whether government deprived person liberty **without DUE PROCESS and by FRAUD.**

(4) Whether government deported person **by FRAUDULENT ACT.**

PARTIES TO THE PROCEEDING

The respondent are: **The United States America;**

Eric Holder,
Attorney General of the U.S.;

Janet Napolitano,
Secretary, U.S. Department of Homeland Security;

Emilio T. Gonzales,
Director, U.S. Citizenship and Immigration Services.

(Hereafter Government)

The Petitioners are; **Sergei Portnoy**

(Hereafter Plaintiff / Petitioner)

Elena (Kudinova) Portnoy.

(Hereafter Plaintiff / Applicant)

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I. U.S. District Court denied adjudication of I-130 Petition five times. Without any adequate explanations.

The Ninth Circuit "Summary AFFIRMED" denial four times. Without OPINIONS or any adequate explanations.

II. The Supreme Court of the United States is last resort on the United States territory where case shall be deciding.

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CONSTITUTIONAL PROVISIONS

U.S. Constitution Amendment V.
U.S. Constitution Amendment XV.

ACTS of CONGRESS

Immigration Nationality Act.
Administrative Procedure Act.
Civil Rights Act.

STATUTES

5 U.S.C. 555(b)
5 U.S.C. 701(1)
5 U.S.C. 702
5 U.S.C. 704
8 U.S.C. 1151(b)(2)(A)(i)
8 U.S.C. 1154(1)(A)(i)
8 U.S.C. 1255(a)
8 U.S.C. 1571(b)
28 U.S.C. 1254(1)
28 U.S.C. 1331
28 U.S.C. 1361
28 U.S.C. 1346(b)
28 U.S.C. 2201
28 U.S.C. 2202
42 U.S.C. 1983

OPINIONS BELOW

The four times "SUMMARILY AFFIRMED" without OPINION of the Ninth Circuit Court of Appeals is **UNREPORTED.**

The five times DENIALS of the district courts is **UNREPORTED.**

STATEMENT OF JURISDICTION

The United States Court of Appeals for the Ninth Circuit issued **(last)** its decision on December 10, 2009. No rehearing was sought or ordered. This Court has jurisdiction under 28 U.S.C. 1254(1).

The Respondents – Plaintiffs below – filed suit under 42 U.S.C. 1983, alleges violations of their federal constitutional rights. The United States District Court for the Northern District of California and United States District Court for the Eastern District of California had jurisdiction under 28 U.S.C. 1331 ("The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.").

STATUTORY AND REGULATORY

BACKGROUND

Plaintiff / Applicant seek lawful permanent resident status, and Applied for such status.

A United States citizen who married a non-citizen may apply for his or her spouse to reside permanently in the United States with the citizen. Pursuant to 8 U.S.C. 1154(1)(A)(i), a United States citizen may file a petition (form I-130) on behalf of a spouse claiming the spouse is entitled to classification as an " IMMEDIATE RELATIVE ". The terms " IMMEDIATE RELATIVE ", as applicable to the United States Citizen's petition, is set forth in the first sentence of 8 U.S.C.1151(b)(2)(A)(i) as "children, spouses and parents of a citizen of the United States.....".

Plaintiff / Applicant, are immediate relative and are illegible for adjustment of status under I.N.A. 245(a), 8 USC 1255(a). An immigration visa are immediately available to Plaintiff / Applicant at the time application was filed pursuant to I.N.A. 245(a), 8 USC 1255(a).

STATEMENT OF THE CASE

1. On October 22, 1998, Plaintiff / Applicant, citizen Republic of Georgia filed an application, a non-immigrant visa, to visit the United States.

Plaintiff / Applicant, a native and citizen of Georgia were admitted to the United States on December 4, 1998, as a B-2 nonimmigrant visitor for pleasure with authorization to remain in the United States for a six-month period.

2. In early June, 1999 Plaintiff / Applicant requested from the former INS authorization to extend her B-2 temporary stay for six month. Without explanation of delay, extension was retroactively authorized by INS until December 3, 1999. On November1999, **before extension of VISA was expired** Plaintiff / Applicant submitted a second, timely request, to extend her B-2 temporary stay for six month.

3. **ON MARCH 17, 2000, Plaintiff / Applicant, was married to United States citizen.**

4. On April 10, 2000, United States citizen Plaintiff / Petitioner, filed with the required fee a form I-130, petition for alien relative **("Petition")** establishing his citizenship and that his spouse is an immediate relative, and executed an "Affidavit of Support". On the same day, Plaintiff / Applicant filed with required fee a form I-485, Application to register permanent residence or to adjust status **("Application")**, seeking adjustment of status to lawful permanent resident, relying on the citizen spouse's petition attesting to the alien's status as spouse.

Plaintiff /Applicant, was assigned an alien number "A-number" which is A-78-188-052. On time when

Petition and Application filed, **Plaintiff / Applicant was lawful presented in the United States.**

5. In the time set by law (180 days) 8 U.S.C. 1571(b) former INS didn't do anything but receive money from petitioner and applicant.

On April 9, 2001, former INS held interview with Plaintiff /Applicant. Both plaintiffs were presented on that interview. **Decision** in violation INA and APA **was made before interview**. On same day INS deprived, Plaintiff /Applicant, right to work.

Finally finding out during the interview that Plaintiff / Applicant never be able to handle a final divorce decree, because **her marriage was never registered by government authority**, there could never be a final divorce decree issued by government authority.

Knowingly and with intent to cover processing and constitutional violations, the former INS **send by mail on next day** after day of interview(April 10,2001,**to Plaintiff / Applicant (Elena Kudinova)**, an AMENDMENT, demanding from **Plaintiff / Applicant** non-existence documents as a **PETITION** (Plaintiff / Applicant not a self Petitioner), and **final divorce decree** between Elena Kudinova and Andrei Stadnikov.

6. On July 26, 2001 former Director, former INS (San Francisco office),send to **Plaintiff / Petitioner, Sergei Portnoy**, FRAUDULENT and UNLAWFUL **denial of PETITION**, and **deprived Plaintiff / Petitioner of the ability to use any**

administrative remedies, and appeal Director's decision and violated his constitutional rights. On same date former Director former INS (San Francisco office); send denial of application I-485 to Plaintiff / Applicant.

7. On the beginning 2004, Plaintiff /Applicant, applied for Naturalization. On October 6, 2004, U.S. Citizenship and Immigration Service denied application with reason: **"As your application fails to establish that you have been lawfully admitted to the United States as a permanent resident, in accordance with Section 316(a) of The Act and 8 CFR 316.2(a)(2), your application cannot be approved and must therefore be, and hereby is, denied".**

8. Because Plaintiff / Applicant was not naturalized, she was deprived her rights for Presidential Elections (twice) 2004 and 2008.

9. On December17,2003, INS / DHS initiated "REMOVAL PROCIDING" against Plaintiff / Applicant, who was lawful presented in the United States under authority Attorney General.

10. On **(MONDAY) August 30, 2004** Immigration judge finding:

> **"Ms. Kudinova was removable as a nonimmigrant that remained in the U.S. for longer than authorized".**

According to the letter Acting Director U.S. Citizenship and Immigration Services Donald Neufeld; **timely filed application for extension of nonimmigrant visa**, was denied due to abandonment on **(SATURDAY) August 28, 2004.**

Also, **Donald Neufeld, LIED,** no any request to Plaintiff / Applicant was send from Nebraska Processing Center. **REQUEST NONEXIST.** In connection with case # CV S 05-649 DFL KJM (U.S. District Court for the Eastern District of California), Government presented record **with fabricated and forgered document under # 0005 and # 0006.** Fabrication and forgery was made on copy machine.

11. On July 10, 2009, Plaintiff / Applicant, was ARRESTED by DHS in her residence: 1003 Ashley Ave., Woodland, California 95695, and **DEPRIVED LIBERTY.**

12. On August 24, 2009, Plaintiff / Applicant was **DEPORTED** from the United States; she was **separated from husband and two children.**

13. From April 10, 2001 until today economical damage resulting from Government Misconduct is about **$200,000. (Two hundred thousand dollars).**

FIRST CAUSE OF ACTION
Violation Immigration Nationality Act

14. Plaintiffs hereby adopt and incorporate by reference paragraphs 1 through 13, inclusive, of this complaint and makes them a part of this instant cause of action as though fully set forth herein.

15. Government knowingly misrepresented the fact. **Government never hand delivered or sent by mail,** any request for submition of documents

to Plaintiff/Petitioner. Record INS didn't have such request. **REQUEST NONEXIST.**

16. **Government denied PETITION due to abandonment, on base of a nonexistent request,** constitutes FRAUDULENT, UNLAWFUL PRACTICE and MISCONDUCT.

17. I-130 petition procedure is not the forum for determining substantive question of admissibility under the immigration laws, and when eligibility for immediate relative classification is established, the **PETITION SHALL BE** granted.

18. Government violated, Plaintiff/Applicant, statutory rights to apply for relief which Congress was provided under the "INA", depriving, Plaintiff / Applicant, of the opportunity to adjust status to lawful permanent resident and live lawfully in the United States under INA 245(a), 8 U.S.C. 1255(a), **on base of FRAUDULENT ACT, and not for discretionary reason.**

19. Government knowingly misrepresented of facts, and initiated Removal Proceeding against alien, **who lawful presented at this time: "Under authority of Attorney General".**

20. As a proximate result of Government's fraudulent, unlawful practices and misconduct, plaintiffs has suffered damages, including but not limited to damages for wage loss and loss of employment benefits, as well as damages for humiliation, embarrassment, mental and emotional distress and discomfort, costs and certain other incidental damages, all according to proof.

21. At all time times herein metitioned, and in acting as alleged herein, Government knew that their acts constituted oppression, fraud or malice or a conscious disregard of the rights of Plaintiffs. Notwithstanding such knowledge, and acting oppressively, maliciously, and fraudulently towards Plaintiffs, with a conscious disregard of their civil rights, with the intention of causing or recklessly disregarding the probability of causing injury and emotional distress to Plaintiffs.

WHEREFORE, Plaintiffs prays for judgment against Defendant.

SECOND CAUSE OF ACTION
Violation Administrative Procedure Act.

22. Plaintiffs hereby adopt and incorporate by reference paragraphs 1 through 21, inclusive, of this complaint and make those parts of this instant cause as though fully set forth herein.

23. Government failure to adjudicate application for (EOC), filed by Plaintiff / Applicant, within 180 day after submitions violates 5 U.S.C. 555(b), and 701(1), and 8 USC 1571(b) and The Due Process Clause of Fifth Amendment to the United States constitution.

24. Government never requests any additional information in connection (EOC) application. **REQUEST NONEXIST.** Record INS does not have any request addressed to Plaintiff/Applicant, or her Representative.

Government has UNLAWFULLY and FRAUDULY denied, timely filed (EOC) application.

25. Government failure to adjudicate "PETITON" and "APPLICATION", for adjustment status within 180 days of the date of their submission or an otherwise reasonable amount of the time violates 5 U.S.C. 555(b),and 701(1),and 8 U.S.C. 1571(b), and The Due Process Clause of Fifth Amendment to the United States constitution.

26. **Government never requested any documents from "Petitioner", and record INS does not have any request addressed to "Petitioner".** Government has unlawfully and fraudulent denied I-130 PETITION filed by Plaintiff / Petitioner. Based on previous fraud, **Government unlawfully and fraudulent denied, application I-485 adjustment of status, or immigrant visa application, in violation of congressional intent.**

. 27. Government denied approval of plaintiffs "Petition" and "Application" solely on the **FRAUDULENT ACT**, and NOT FOR DISCRETIONARY REASON. **Government has filed to perform their duties on base fraudulent act and by failing to exercise discretion.**

28. Plaintiffs was suffered a "LEGAL WRONG" or have been "AFFECTED OR AGGRIEVED" by agency action, 5 U.S.C 702.

Both Plaintiffs are a PERSON aggrieved by agency action, for there is no other adequate remedy in a court 5 U.S.C. 704.

29. As approximate result of Government's fraudulent, unlawful practices and misconduct, plaintiffs has suffered damages, including but not limited to damages for wages loss and loss of employment benefits, as well as damages for humiliation, embarrassment, mental and emotional distress and discomfort, cost and certain other incidental damages, all according to proof.

30. At all times herein mentioned, and in acting as alleged herein,Government knew that their acts constituted oppression, fraud or malice or a conscious disregard of the rights of Plaintiffs. Notwithstanding such knowledge, and acting oppressively, maliciously, and fraudulently towards Plaintiffs, with a conscious disregard of their civil rights, with the intention of causing or Recklessly disregarding the probability of causing injury and emotional distress to Plaintiffs.

WHEREFORE, Plaintiffs prays for judgment against Government.

THIRD CAUSE OF ACTION
Violation of Fifteenth Amendment constitution of the United States.

31. Plaintiffs hereby adopt and incorporate by reference paragraph 1 through 30, inclusive, of this Complaint and make them a part of this instant cause as though fully set forth herein.

32. Fraudulent denial of rights Plaintiff / Applicant to adjust her status to lawful

permanent resident damaged her rights for timely Naturalization.

33. As approximate result of Government fraudulent, unlawful practices and misconduct, Plaintiff / Applicant, has suffered damages her rights secured by Amendment Fifteen of the constitution of The United States, at the time of two Presidential elections: first time on November 2004, and second time on November 2008.

34. At all time herein mentioned, and in acting as alleged herein, Government knew that their acts constituted oppression, fraud or malice or a conscious disregard of the rights of Plaintiff / Applicant. Notwithstanding such knowledge, and acting oppressively, maliciously and fraudulently towards plaintiff, with a conscious disregard of her civil rights, with the intention of causing or recklessly disregarding the probability of causing injury and emotional distress to Plaintiff / Applicant.

WHEREFORE, Plaintiff prays for judgment against Government.

FORTH CAUSE OF ACTION
Violation of Fifth Amendment Constitution of the United States.

35. Plaintiffs hereby adopt and incorporate by references paragraph 1 through 34, inclusive, of this Complaint and makes them a part of this instant cause as tough fully set forth herein.

36. Amendment Five of the Constitution of the United States provides, in pertinent part that,

"No PERSON shall be deprived of liberty, or property without due process of law".
By misconduct alleged hereinabove, Government denied Plaintiffs the rights guaranteed to them by Amendment Five of the Constitution of the United States, by fraudulent actions, and by knowingly and intentionally misrepresentations of the facts.

37. As a proximate result of the unlawful practices, alleged above, Government deprived Plaintiffs Due Process Rights:

"Denial due to abandonment may not be appealed."
No administrative remedies available, because Request Nonsexist.
The adjustment of status, require an approved immigrant I-130 petition."

38. Government deprived Plaintiffs property ($$ filing fee) by knowingly and intentional misrepresentation of facts, and also deprived LIBERTY of Plaintiff / Applicant, by knowingly and intentional misrepresentation of facts.

39. At all time herein mentioned, and in acting as alleges herein, Government knew, that their acts constituted oppression, fraud or malice or a conscious disregard of the Rights of Plaintiffs.
Notwithstanding such knowledge, and acting oppressively, maliciously and fraudulently towards Plaintiffs, with a conscious disregard of their civil rights, with the intention of causing or recklessly

disregarding the probability of causing injury and emotional distress to plaintiffs.

WHEREFORE, Plaintiffs pray for judgment against Government.

FIFTH CAUSE OF ACTION
Violation (Article 9 sec.1) Convention of the Right of the Child 1989.

40. Plaintiffs hereby adopt and incorporate by reference paragraph 1 through 39, inclusive, of this complain and make them a part of the instant cause as though fully set for herein.

41. Article 9(1) Convention of the Right of the Child 1989 provides, in Pertinent part that, " **State parties shall insure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, In accordance with applicable law and procedures, that such separation is necessary for the best interest of the Child..**"
By conduct alleged hereinabove, Government denied children their rights.

42. As an approximate result of the unlawful employment practices of Government, alleged above, 14 years old Alexander Kudinov and 4 years old Natalie Portnoy has suffered damages for humiliation, embarrassment, mental and emotional distress and discomfort.

43. At all times herein mentioned, and in acting as alleged herein, Government, knew that their act

constituted oppression, fraud or malice or a conscious disregard of rights of children.
Notwithstanding such knowledge, and acting oppressively, maliciously and fraudulently toward childrens,with a conscious disregard of their rights, with the intention of causing or recklessly disregarding the probability of causing injury and emotional distress to children.

WHEREFORE, Plaintiffs pray for judgment against Government.

SIXTH CAUSE OF ACTION
Violation Universal Declaration of Human Rights 1948
Articles 3, 7, 9, 12, 15(sec.1), 16(sec.3), 17(sec.2), 22, 23(sec.1), 28, 30.

44. Plaintiffs hereby adopt and incorporate by reference paragraph 1 through 43, inclusive, of this complain and make them a part of the instant cause as though fully set for herein.

45. As a proximate result of the fraudulent and unlawful employment practices, alleged above, of Government, **Plaintiff / Applicant** has suffered damages, including damages for wage loss and loss of employment benefits, social security benefits such as pension and disability insurance,Medical and Medicare. Children do not have association with mother, mother do not have association with children and husband, and also **Plaintiff / Applicant was deprived liberty** for period of 47 days, deprived rights for work for period more then 8 years,

deprived property (filing fee, bail fee), and DEPORTED.
Plaintiff / Petitioner was deprived property (filing fee), was deprived right live with wife and was deprived right for **fairness treatment.**
Plaintiffs have suffered damages, as well as for humiliation, embarrassment, mental and emotional distress and discomfort, as well as cost and certain other incidental damages, all according to proof.

46. At all times herein mentioned, and in acting as alleged herein, Government knew that fraud is illegal and wrongful.
Notwithstanding such knowledge, and acting oppressively, maliciously, and fraudulently towards Plaintiffs, with a conscious disregard of their **HUMAN and Civil rights**, with the intention of causing or recklessly disregarding the probability of causing injury and emotional distress to Plaintiffs and their Childs, Government refused to cease and desist from subjecting Plaintiffs to differential treatment as alleged above.

WHEREFORE, Plaintiffs pray for judgment against Government.

SEVENTH CAUSE OF ACTION
Intentional infliction of emotional distress.

47. Plaintiffs hereby adopt and incorporate by reference paragraph 1 through 46, inclusive, of this complain and make them a part of the instant cause as though fully set for herein.

48. The wrongful conduct of Government was intentional and malicious and done for the purpose of causing Plaintiffs and their children to suffer humiliation, mental anguish, and emotional distress.

49. As a proximate result of the aforementioned conduct of Government, Plaintiffs and their children suffered humiliation, mental anguish, and emotional distress which resulted in severe and recurring heart palpitations, breathing problems, interference with their sleep, weight fluctuation, and plaintiffs and their children was injured in an amount according to proof a trial.

50. At all time herein mentioned, and in acting as alleged herein, Government knew that their acts constituted oppression, fraud or malice or a conscious disregard of the rights of Plaintiffs and their children. Government so acted intentionally without regard to and harming Plaintiffs and their children.

WHEREFORE, Plaintiffs prays for judgment against Government.

EIGHT CAUSE OF ACTION
Negligent infliction of emotional distress.

51. Plaintiffs hereby adopt and incorporate by reference paragraphs 1 through 50, inclusive, of this complaint and make them a part of the instant cause of action as through fully set forth herein.

52. When Government acted as aforementioned, it was foreseeable that these actions would cause serious emotional distress to Plaintiffs and their children. Notwithstanding Government knowledge of

same, or the fact that Government should have known that such a result would probably occur, Government continued in their course of wrongful conduct as alleged herein.

53. The above-said acts of Government, constituted a negligent infliction of emotional distress on Plaintiffs and their children herein. Plaintiffs and their children suffered humiliation, mental anguish, and emotional distress, all as a proximate result of Government's conduct, as alleged above.

As a result of same, Plaintiffs claim damages according to proof at trial.

WHEREFORE, Plaintiffs prays for judgment against the Government as hereinafter set forth.

NINTH CAUSE OF ACTION
Violation of the Equal Protection Clause.

54. Plaintiffs hereby adopt and incorporate by reference paragraphs 1 through 53, inclusive, of this complaint and make them a part of the instant cause of action as thought filly set forth herein.

55. Under the "totality of circumstances" the Government behavior in fraudulent denying I-130 **Petition** and I-485 Application, arresting, detaining and deporting Plaintiff / Applicant amounts to a **PRIMA FACIE case** of violation Civil rights and Civil liberties which, unless adequately rebutted by Government, constitutes a violation of the **Equal Protection Clause** of the Amendment Fifth United States Constitution.

WHEREFORE, the plaintiffs requests that this Court:

A). Assume jurisdiction over this matter;

B). Issue a declaration that the Government violated Plaintiffs rights under the **Immigration Nationality Act;**

C). Issue a declaration that the Government violated Plaintiffs rights under the **Administrative Procedure Act;**

D). Issue a declaration that the Government violated plaintiffs rights under the **Amendment Fifteenth of the United States Constitution** in 2004 and 2008;

E). Issue a declaration that the Government violated plaintiffs rights under the Amendment **Fifth of the United States Constitution;**

F). Issue a declaration that the Government violated plaintiffs and their Childs rights under the Article 9(section1) **Convention of the Right of the Child 1989;**

G). Issue a declaration that the Government violated plaintiffs rights under the **Universal Declaration of Human Rights 1948;**

H). Issue a declaration that the Government developed and maintained practices, policies and/or customs exhibiting deliberate indifference to the constitutional rights of its citizens and aliens, which caused the violations of plaintiff 's rights, in violation of 42 U.S.C. 1983;

I). **ORDER** the Government **to RETURN** Plaintiff / Applicant, Elena Portnoy (Kudinova), to the family **in the United States IMMEDIATELY;**

J). **ORDER** the Government to **retroactive permanent resident status** for Plaintiff / Applicant Elena Portnoy (Kudinova);

K). **ORDER** the Government to **retroactive certificate of naturalization** for Plaintiff / Applicant Elena Portnoy (Kudinova);

L). **ORDER** the Government to **pay compensatory damages** to the plaintiffs;

M). Grant any other relief the Court deems appropriate.

WHEREFORE, Plaintiffs request that this Court enter judgment against the Government and award the following amounts:

($ 2,200,000.00) Two Million Two Hundred Thousand Dollars compensatory damages in favor of plaintiffs;

Cost of this action;

For prejudgment interest as allowed by law;

Such other and further relief as the Court may deem appropriate.

REASON FOR GRANTING THE WRIT

I.

U.S. District Court for the Northern District of California denied adjudication I-130 petition with reason: **LACKS OF JURISDICTION** with intent to cover violation made by Government official CHARLES H. DEMORE, and with intend to mislead (plaintiff I-130 Petitioner) Sergei Portnoy. Case # C 01-3334 MJJ.

Next time U.S. District Court for the Northern District of California denied adjudication I-130 petition with reason: **RES JUDICATA for never adjudicated case**. Case # C-03-4238 MJJ.

This case was appealed and dismissed by Court of Appeals for the Ninth Circuit with reason LACK JURISDICTION. No. 04 – 15635.

Next time U.S. District Court for the Eastern District of California denied complaint with Reason **RES JUDICATA for never adjudicated case**. Case # CIV S-05-0649 DFL KJM PS.

This denial was appealed, and SUMMARILY AFFIRMED by Court of Appeals for the Ninth Circuit without OPINION. No.06 – 16956.

Next time U.S. District Court for the Eastern District of California denied complaint with reason: **DUE TO THE DUPLICATIVE NATURE OF THE PRESENT ACTION.** Case # CIV S-08-1266 MCE GGH PS.

This case was appealed, and SUMMARILY AFFIRMED by the Court of Appeals for the Ninth Circuit without OPINION. No. 09 – 15789.

Next time U.S. District Court for the Eastern District of California denied complaint **WITH PREDJUDICE, since it is duplicative of the previous actions filed by plaintiffs.** Case # CIV S-09-1935 GEB DAD PS.

This case was appealed, and SUMMARILY AFFIRMED by Court of Appeals for the Ninth Circuit without OPINION. No. 09 – 16727.

II.

The Supreme Court of the United States is last resort on U.S. territory where case can be deciding.

CONCLUSION

The Court should grant this Petition for Certiorari.

Respectfully submitted,

Sergei Portnoy,

S. Portnoy

Elena Portnoy.

Elena Portnoy

March 22, 2010.